CIVIL COVER SHEET

APPENDIX H

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Anthony DiMeo, III

(b) County of Residence of First Listed Plaintiff Philadelphia, PA
(EXCEPT IN U.S. PLAINTIFF CASE)

(c) Attorneys (Firm Name, Address and Telephone Number)
Matthew Weisberg, Esquire
Prochniak Poet & Weisberg, P.C.
7 South Morton Avenue
Morton, PA 19070
(610) 690-0801

DEFENDANTS

Tucker Max

County of Residence of First Listed __________
(IN U.S. PLAINTIFF CASE ONLY)

NOTE: IN LAND CONTAMINATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)
Michael K. Twersky, Esquire
Montgomery, McCracken, Walker & Rhoads, LLP
123 S. Broad Street, Philadelphia, PA 19109
215-772-1500

II. BASIS OF JURISDICTION (Place an X in one box only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in (one box for plaintiff and one box for defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of this State	☒	☐	Incorporated *or* Principal Place of Business in This State	☐	☐
Citizen of Another State	☐	☒	Incorporated *and* Principal Place of Business in Another State	☐	☐
Citizen or Subject of a Foreign Country	☐	☐	Foreign Nation	☐	☐

IV. NATURE OF SUIT (Place an X in one box only.)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damages
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 Habeas Corpus
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSFD Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Comm
- ☐ 875 Customer Challenger 12 USC 3410
- ☒ 890 Other Statutory Actions
- ☐ 891 Agriculture Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 940 Constitutionality of State Statues
- ☐ 890 Other Statutory Actions

V. ORIGIN

- ☐ 1. Original Proceeding
- ☒ 2. Removed from State Court
- ☐ 3. Remanded from Appellate Court
- ☐ 4. Reinstated or Reopened
- ☐ 5. Transferred from another district (specify)
- ☐ 6. Multidistrict Litigation
- ☐ 7. Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
47 U.S.C. § 223(a)(1)(c) (Communications Act of 1943)

Brief statement of cause. Violation of statute through hosting, maintenance and publication of statements on Internet website without disclosing identity of the author of statements.

VII. REQUESTED IN COMPLAINT

☐ Check if this is a CLASS ACTION under F.R.C.P. 23

DEMAND $ in excess of $1,000,000

Check YES only if demanded in complaint

JURY DEMAND: ☒YES ☐NO

VIII. RELATED CASE(S) IF ANY

(See instructions) JUDGE__________ DOCKET NUMBER__________

DATE: April 12, 2006

SIGNATURE OF ATTORNEY OF RECORD:

FOR OFFICE USE ONLY

RECEIPT # ________ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG JUDGE ______

Dockets.Justia.com

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a Government Agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney or record. If there are several attorneys list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8 (a), F.R.C.P. which requires that jurisdiction be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331 where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, and act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332 where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below.) (Federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of description, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded for Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

(07/86)

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Anthony DiMeo, III,	:	
Plaintiff,	:	CIVIL ACTION
vs.	:	
Tucker Max,	:	No. ________________
Defendants.	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. §2441 through $2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

April 12, 2006	Michael K. Twersky (PA ID No. 80568)	Defendant
Date	**Attorney-at-law**	**Attorney for**
215-772-7313	215-731-3663	mtwersky@mmwr.com
Telephone	**Fax Number**	**E-Mail Address**

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY DIMEO, III,	:	
	:	
Plaintiff,	:	
	:	**No. ____________________**
v.	:	
	:	
TUCKER MAX	:	
	:	
Defendant.	:	

NOTICE OF REMOVAL

Defendant Tucker Max hereby gives Notice of Removal of this action from the Court of Common Pleas, Philadelphia County, Pennsylvania, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania.

The grounds for removal are as follows:

1. On or about March 10, 2006 plaintiff Anthony DiMeo, III filed a Civil Action Complaint in the Court of Common Pleas, Philadelphia County, Pennsylvania naming Mr. Max as the sole defendant. *See* Exhibit A, Complaint.

2. On March 22, 2006, Mr. Max's counsel agreed to accept service of the Complaint on his behalf.

3. On March 23, 2006, plaintiff's counsel forwarded the Complaint, by electronic mail, to Mr. Max's counsel. Thus, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), as it is filed within thirty (30) days of service of the Complaint.

4. In his Complaint, plaintiff avers that he is a resident citizen of Philadelphia, Pennsylvania. Exhibit A, Complaint at ¶1.

5. Mr. Max is a resident citizen of New York County, New York. *Id.* at ¶2.

6. Therefore, plaintiff and defendant are citizens of different states.

7. Plaintiff's Complaint contains three separate Counts, the second of which is for alleged violations of the "Communications Act of 1943 (47 U.S.C. § 223(a)(1)(c))." *Id.* at ¶¶13-14.

8. Plaintiff further alleges that the amount in controversy is "in excess of $75,000," and he is seeking $1 million in punitive damages. *Id.* at ¶¶12, 14 and 18 ("WHEREFORE" clauses).

9. Because the parties are of completely diverse citizenship, and the amount in controversy is in excess of $75,000, this Court has original jurisdiction of this action under the provisions of 28 U.S.C. § 1332(a), and the action is removable pursuant to 28 U.S.C. § 1441(a).

10. In addition, because plaintiff has alleged violations of the Communications Act of 1943, as amended, 47 U.S.C. § 223(a)(1)(c)), removal of this case also is proper pursuant to 28 U.S.C. § 1331, and this court should exercise supplemental jurisdiction over plaintiffs' state law tort claims, as they form part of the same case or controversy as the federal claim. *See* 28 U.S.C. § 1367.

WHEREFORE, defendant Tucker Max hereby gives notice of removal of this action from the Court of Common Pleas, Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

Dated: April 12, 2006

MT 829

Michael K. Twersky, (PA Atty. I.D. 80568)
Montgomery, McCracken, Walker & Rhoads, LLP
123 South Broad Street
Philadelphia, PA 19109
215-772-1500 (Telephone)
215-731-3663 (Facsimile)

Attorney for Defendant
Tucker Max

Exhibit A

Court of Common Pleas of Philadelphia County

Trial Division

Civil Cover Sheet

001576

PLAINTIFF'S NAME Anthony DiMeo	DEFENDANT'S NAME Tucker Max
PLAINTIFF'S ADDRESS 226 West Rittenhouse Square Philadelphia, PA 19103	DEFENDANT'S ADDRESS 143 Madison Ave New York, NY 10016
PLAINTIFF'S NAME	DEFENDANT'S NAME
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS
PLAINTIFF'S NAME	DEFENDANT'S NAME
PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS

TOTAL NUMBER OF PLAINTIFFS: 1

TOTAL NO. OF DEFENDANTS: 1

COMMENCEMENT OF ACTION
- [x] Complaint
- [ ] Writ of Summons
- [ ] Petition Action
- [ ] Transfer From Other Jurisdictions
- [ ] Notice of Appeal

AMOUNT IN CONTROVERSY
- [ ] $50,000.00 or less
- [x] More than $50,000.00

COURT PROGRAMS
- [ ] Arbitration
- [x] Jury
- [ ] Non-Jury
- [ ] Other: ______
- [ ] Mass Tort
- [ ] Savings Action
- [ ] Petition
- [ ] Commerce
- [ ] Minor Court Appeal
- [ ] Statutory Appeals
- [ ] Settlement
- [ ] Minors
- [ ] W/D/Survival

CASE TYPE AND CODE (SEE INSTRUCTIONS)

Civil Action Complaint - 2L - Libel & Slander

STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

IS CASE SUBJECT TO COORDINATION ORDER?

Yes [ ] No [x]

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant:

Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY Matthew Weisberg	ADDRESS (SEE INSTRUCTIONS) Prochniak Poet & Weisberg, P.C. 7 S. Morton Ave. Morton, PA 19070
PHONE NUMBER 610-690-0801 / FAX NUMBER 610-690-7401	
SUPREME COURT IDENTIFICATION NO. 85570	E-MAIL ADDRESS mweisberg@ppwlaw.com
SIGNATURE [signature]	DATE 2/21/06

THIS IS A MAJOR JURY MATTER.
ASSESSMENT OF DAMAGES REQUIRED.

ATTEST
MAR 10 2006
LAURA PAONE

PROCHNIAK POET & WEISBERG, P.C.
MATTHEW B. WEISBERG, ESQUIRE
IDENTIFICATION NO.: 85770
7 S. MORTON AVE.
MORTON, PA 19070
(610) 690-0801

ATTORNEY FOR PLAINTIFF

JURY FEE PAID

ANTHONY DIMEO, III
226 WEST RITTENHOUSE SQUARE
PHILADELPHIA, PA 19103

v.

TUCKER MAX
143 Madison Avenue
New York, NY 10016

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

TERM, 2006 MARCH 2006

NO. 001576

JURY FEE PAID

CIVIL ACTION COMPLAINT
2L - LIBEL

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perer dinero o sus propiedades u otros derechos importantes para usted.

Lleva esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociacion de Licenciados
de Filadelfia
Servicio de Referencia e
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

THIS IS A MAJOR JURY MATTER.
ASSESSMENT OF DAMAGES REQUIRED.

PROCHNIAK POET & WEISBERG, P.C.
MATTHEW B. WEISBERG, ESQUIRE
IDENTIFICATION NO.: 85770
7 S. MORTON AVE.
MORTON, PA 19070
(610) 690-0801

ATTORNEY FOR PLAINTIFF

ANTHONY DIMEO, III
226 WEST RITTENHOUSE SQUARE
PHILADELPHIA, PA 19103

v.

TUCKER MAX
143 Madison Avenue
New York, NY 10016

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

TERM, 2006
NO.

CIVIL ACTION COMPLAINT
2L - LIBEL

1. Plaintiff, Anthony DiMeo, III (hereinafter "DiMeo"), is an individual currently residing at the above captioned address.

2. Defendant, Tucker Max ("Max"), is an individual maintaining a principal place of business at the above captioned address.

3. Defendant does business, advertises and publishes a web site directed towards the City and County of Philadelphia and/or residents therein, including Defendant, which is hereinafter more fully described.

4. At all times material, Defendant maintained, hosted and published a web-site: www.tuckermax.com ("Site"), more fully described at length herein.

5. Defendant through his Site publishes defamatory statements aimed at Plaintiff, including, but not limited to:

a. " Maybe you should find your validation elsewhere…preferably at the end of a magnum"

b. "I just wanted to let you know that I think that you are the biggest piece of shit I have ever heard of and I hope that you die soon";

c. " Now I know why Arlen Specter got invited to all those Renamity Http://www.renamity.com/galary/birthdaybash/escf0009 parties! Could it be…bribery of your local politician";

d. "He's got a neat, nice little page there from which we can harass him";

e. "I can't believe no one has killed him yet";

f. "You threw an absolutely disastrous party on New Year's Eve precipitated by false advertising and possible fraud"; and

g. Such other and further libelous statements published on the Site and will likely be published on said site, which are herewith incorporated by reference as if fully set forth at length herein as if originally pleaded herein, as may be discovered throughout ongoing discovery and/or at trial.

6. At all times material, Defendant negligently, carelessly, recklessly and/or intentionally published said libelous statements with a view towards:

a. Reducing and/or impeding Plaintiff's commercial success and profitability;

b. Harassing, threatening, and annoying Plaintiff;

c. Personally and financially injuring Plaintiff;

d. Inciting violence and criminal misconduct toward Plaintiff and Plaintiff's companies, firms, and businesses: DiMeo Farms, LLC., Renamity, Inc., and Wealth Management; and

e. Otherwise defaming Plaintiff.

7. At all times material, Plaintiff is a private person and not a public figure and is entitled to heightened protection from defamatory publications.

COUNT I-DEFAMATION

8. Paragraphs 1-7 above are incorporated by reference as if more fully set forth at length herein.

9. Defendant's Site constitutes a defamatory publication, actionable per se as libel per se and was and/or is published with express and actual malice with an intent to defame and/or libel Plaintiff.

10. The defamatory conduct of Defendant includes, but is not limited to:

a) Accusing Plaintiff of criminal conduct without investigating the truth or veracity thereof and with express malice and reckless disregard for the truth;

b) The continuing failure of Defendant to substantiate the published baseless allegations;

c) Knowing or should have known of the lack of veracity of the Site's aforementioned defamatory substance;

d) Publishing said defamatory accusations;

e) Misappropriating Plaintiff's personal likeness and web sites of his public relations firm, Renamity Public Relations & Special Events (http://www.renamity.com), his personal and Wealth Management web site (http://www.anthonyDiMeo.com), and the web site which details the legacy of his family farming operation, DiMeo Farms, LLC (http://www.DiMeofarms.com), or portions thereof with a view towards profit and/or commercial gain;

f) Casting Plaintiff in a false light;

g) Invading Plaintiff's privacy and/or inappropriately exposing Plaintiff's private life to public ridicule and scorn:

h) Inciting violence against Plaintiff;

i) Publishing with an intent to threaten, harass, humiliate and annoy Plaintiff;

j) Such other and further defamatory conduct as may be revealed throughout continuing discovery and/or at trial.

11. Defendant's misconduct as set forth at length above has severely injured Plaintiff in that it has tended to:

a) Blacken Plaintiff's reputation;

b) Expose Plaintiff to public hatred, contempt and ridicule;

c) Falsely ascribe to Plaintiff want of integrity and other characteristics incompatible with a faithful performance of his daily life, duties and occupation;

d) Injure him regarding his business and/or profession;

e) Cause Plaintiff severe emotional distress;

d) Cause Plaintiff severe financial hardship; and

f) Such other injuries as may be revealed throughout continuing discovery and/or at trial, all of which may be permanent and ongoing.

12. Plaintiff is entitled to recover from Defendant such damages as will compensate him for his aforementioned injuries, as well as punitive damages which will deter like future misconduct from Defendant.

WHEREFORE, Plaintiff, Anthony DiMeo, III, demands judgment in his favor and against Defendant, Tucker Max, in an amount in excess of $75,000.00, together with attorneys fees, interest, costs and such other and further relief as this Honorable Court deems necessary and just, including punitive damages.

COUNT II- VIOLATION OF THE COMMUNICATIONS ACT, AS AMENDED

13. Plaintiff incorporates by reference 1-12 as if the same were fully set forth at length herein.

14. At all times material, Defendant was and/or is in violation of the Communications Act of 1943 ("Communications Act") (47 U.S.C. 223(a)(1)(c)), as amended by the

Violence against Woman and Department of Justice Reauthorization Act of 2005 ("The Act") (H.R. 3402-288§113), through the hosting, maintenance and publication of the aforesaid site, by transmitting via the internet the aforesaid defamatory publications without disclosing the identity of the maker thereof and/or for commercial purposes, with intent to annoy, abuse, threaten, or harass Plaintiff, and as such, Defendant is civilly liable to Plaintiff for same.

WHEREFORE, Plaintiff, Anthony DiMeo, III, demands judgment in his favor and against Defendant, Tucker Max, in an amount in excess of $75,000.00, together with attorneys fees, interest, costs and such other and further relief as this Honorable Court deems necessary and just, including punitive damages.

COUNT III - PUNITIVE DAMAGES

15. Plaintiff incorporates by reference paragraphs 1-14 as if the same were fully set forth at length herein.

16. The actions and conduct set forth above of Defendant was extreme and outrageous and was done intentionally and/or recklessly and/or maliciously by said Defendant against Plaintiff.

17. Said actions and conduct was done with bad motive and in wanton, willful and reckless disregard for the rights of Plaintiff.

18. Plaintiff herewith avers that Punitive Damages are warranted by the aforesaid conduct and actions and as a result of the aforementioned conduct, which is herewith incorporated by reference.

WHEREFORE, Plaintiff, Anthony DiMeo, III, demands judgment in his favor and against Defendant, Tucker Max, in an amount in excess of $1 Million ($1,000,000.00), together with attorneys fees, interest, costs and such other and further relief as this Honorable Court deems necessary and just.

PROCHNIAK POET & WEISBERG, P.C.

MATTHEW B. WEISBERG, ESQUIRE
Attorney for Plaintiff

Date: 3/8/06

VERIFICATION

The facts contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. The language of this pleading is that of counsel and not of signer. This verification is made subject to the penalties of 18 PA C.S.A. §4904 relating to unsworn falsification to authorities.

Matthew B. Weisberg /S/
Signature

Matthew B. Weisberg
Print name

Counsel
TITLE

Date: 2-13-06

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April 2006, a true copy of the foregoing Notice of Removal was sent by facsimile and First Class U.S. Mail, postage prepaid, to the following:

Matthew B. Weisberg, Esquire
Prochniak Poet & Weisberg, P.C.
7 S. Morton Ave.
Morton, PA 19070
(610) 690-0801 (tel)
(610) 690-7401 (fax)

John G. Papianou